



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL - 1 2011

Honorable Hosanna Mahaley  
State Superintendent  
Office of the State Superintendent of Education  
810 First Street, N.E. 9<sup>th</sup> Floor  
Washington, D.C. 20002

Dear Superintendent Mahaley:

We have conditionally approved the District of Columbia's application for Federal Fiscal Year (FFY) 2011 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our conditional approval is based on our review of the application submitted by the District of Columbia, Office of the State Superintendent of Education (D.C. or D.C. OSSE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 10, 2011 and revised on May 27, 2011, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A. In addition, the State provided specific assurances that it will:

1. Operate consistently with IDEA Part B and applicable regulations; and
2. Make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of IDEA Part B as soon as possible, and not later than June 30, 2012. Within Section II of its application, the State has included, for each assurance it cannot meet at this time, the date by which it expects to complete necessary changes to any policies and procedures that are not yet in compliance with the requirements of IDEA Part B.

As set forth in Enclosure D, in April 2006, under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR §80.12, the Department designated the District of Columbia Public Schools (DCPS)<sup>1</sup> a "high-risk" grantee. Special Conditions were placed on all Department grants awarded to DCPS because of problems in DCPS' fiscal and program accountability, management systems, and related areas. The FFY 2006, FFY 2007, FFY 2008, FFY 2009, and FFY 2010 IDEA Part B grant awards were released subject to the Department-wide Special Conditions. Because of the problems noted in the Department's correspondence, dated June 15, 2011 (Enclosure D), D.C. OSSE's status as a "high-risk" grantee under 34 CFR §80.12 continues, and therefore, Special Conditions are imposed on all FFY 2011 grants awarded to D.C. OSSE by the Department.

In addition to the Department-wide conditions, the State's FFY 2011 IDEA Part B grant awards are being released subject to FFY 2011 Special Conditions, as set forth in Enclosure E, that are being imposed pursuant to the Department's authority in IDEA section 616(g) and 34 CFR

<sup>1</sup> The District of Columbia Public Education Reform Act of 2007 signed into law by the Mayor on April 23, 2007, transferred authority to the Mayor's Office for the purpose of administering Federal grants, the functions of the State Educational Agency, the Local Educational Agency, and the State agencies responsible for Adult Education and Literacy and the IDEA Part C early intervention program. The transfer to D.C. OSSE became effective October 1, 2007.



§80.12. Specifically, OSEP determined that D.C. has continued to demonstrate noncompliance related to: timely initial evaluations and reevaluations (IDEA section 612(a)(7) and 614(a) through (c) and 34 CFR §§300.301(c)(1) and 300.303); timely implementation of due process hearing decisions (IDEA section 615(f) and (i)); timely correction of noncompliance (IDEA section 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, 20 U.S.C. 1232d(b)(3)), and OSEP Memorandum 09-02, dated October 17, 2008; secondary transition requirements (IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b)); and early childhood transition requirements (IDEA section 612(a) and 34 CFR §300.124(b)).

Your State's failure to ensure: (a) timely initial evaluations and reevaluations; (b) timely implementation of hearing officer determinations; (c) timely correction of noncompliance; (d) compliance with the secondary transition requirements; and (e) compliance with early childhood transition requirements, in Part B resulted in the Department imposing the FFY 2010 Special Conditions contained in Enclosure E of the July 1, 2010 grant award letter. Because D.C. did not meet those Special Conditions, the Department is, again, imposing Special Conditions on the State's FFY 2011 grant awards under Part B.

On June 20, 2011, D.C. was notified that under section 616(d), the Department determined that D.C. needs intervention in implementing the requirements of Part B of the IDEA for the fifth consecutive year. In accordance with IDEA section 616(e)(2)(B)(i) and 34 CFR §300.604(b), the Department required D.C. to submit a corrective action plan (CAP) by August 1, 2011 that is reasonably designed to address each of the areas in which the State needs intervention. In addition, pursuant to IDEA section 616(e)(1)(B) and (2)(A), the Department directed D.C. to use \$500,000 of its FFY 2011 State-level funds under IDEA section 611(e) to address the longstanding noncompliance with the requirements to conduct timely initial evaluations and reevaluations. D.C. must use \$500,000 of its FFY 2011 State-level funds to carry out initial evaluations and reevaluations for children who have not been provided a timely initial evaluation or reevaluation (i.e., to reduce the backlog of overdue initial evaluations and reevaluations). The Department authorizes D.C. to use the otherwise directed funds for other purposes if the State elects to direct local educational agencies (LEAs) that demonstrated noncompliance with the requirements to conduct timely initial evaluations and reevaluations, to use \$500,000 of their FFY 2011 Part B funds to reduce the backlog of overdue initial evaluations and reevaluations.<sup>2</sup> The reporting requirements related to the CAP and directed use of FFY 2011 IDEA Part B funds outlined in the Department's June 20, 2011 letter are incorporated in the Special Conditions and described in Enclosure E.

The reasons for the Special Conditions and the specific conditions are also detailed in Enclosure E. The State must administer these grant awards both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document.

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<sup>2</sup> Under Section III of the FFY 2011 Part B application, D.C. was required to complete an Excel Interactive Spreadsheet that describes how it intends to use its FFY 2011 State-level funds reserved under IDEA section 611(e) for administration and other State-level activities. In completing the Spreadsheet, each State must indicate, for each of the activities listed in IDEA section 611(e)(1) and (2), dollar amounts, if any, of the State's total allocation under section 611(e) for FFY 2011 that will be used for that activity. D.C. must obtain the prior approval of OSEP if it changes the dollar amounts that will be used for one of the activities listed in the Spreadsheet and that change exceeds ten percent of the total amount of funds reserved under IDEA section 611(e) for State-level activities. See 34 CFR §80.30(c)(1).



Acceptance by the District of Columbia of these grant awards constitutes an agreement by the State to comply with the Special Conditions.

Please note that as part of your application for FFY 2011, your State has made an assurance, pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2011 grant period. Any changes made by the State, after OSEP approval, to information that is a part of a State's application, must meet the public participation requirements in 34 CFR §300.165.

Enclosed are the State's grant awards for funds currently available under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 -- P.L. 112-10 for the IDEA Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are available for obligation by States from July 1, 2011 through September 30, 2013 in accordance with 34 CFR §76.709.

The amount in your award for Section 619 represents the full amount of funds to which you are entitled. However, the amount shown in your award for the Section 611 program is only part of the total funds that will be awarded to you for FFY 2011. Of the \$11,482,200,578 appropriated for Section 611 in FFY 2011, \$2,889,817,578 is available for awards on July 1, 2011, and \$8,592,383,000 will be available for awards on October 1, 2011. Under the Section 611 formula, in a year in which the amount available for allocation to States decreases from the prior year, but is greater than the 1999 level, any amount available for allocation to States above the 1999 level is allocated based on the relative increases in funding that the States received between 1999 and the prior year.

In FFY 2011, the appropriation for the Preschool Grants program is \$373,350,802. Under the Section 619 formula, in a year in which the amount available for allocation to States decreases from the prior year, but is greater than the 1997 level, any amount available for allocation to States above the 1997 level is allocated based on the relative increases in funding that the States received between 1997 and the prior year.

Enclosure B provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure B shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations.

Enclosure C provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II in Enclosure C shows State-by-State funding levels for distribution of Section 619 funds.

Section 611(e)(1)(C) of the IDEA provides that "[p]rior to expenditure of funds under this paragraph [section 611(e)(1) concerning funds for State administration], the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current." We read this provision to mean that if a State does not have interagency agreements or other arrangements in place to establish responsibility for the provision of services, the State may not expend funds available to the State under section 611(e)(1) [State administration funds] until the State has these agreements or arrangements in place.

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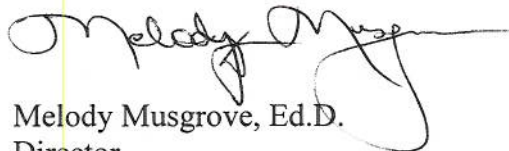
Under section 608(a)(2) of the IDEA, each State that receives funds under IDEA Part B is required to inform in writing LEAs located in the State of any State-imposed rule, regulation, or policy that is not required by IDEA or Federal regulations. A State may use the same list of State-imposed rules, regulations and policies that it was required to submit to the Department in Section IV of its IDEA Part B application for this purpose.

The enclosed grant awards of FFY 2011 funds are made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part B.

As a reminder, within 30 days of July 1, 2011, all prime recipients of IDEA (Part B or Part C) funds must report subaward information as required by the Federal Financial Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State's Recovery Act Facilitator if you have further questions.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove", with a long horizontal flourish extending to the right.

Melody Musgrove, Ed.D.  
Director  
Office of Special Education Programs

Enclosures

Enclosure A  
Enclosure B  
Enclosure C  
Enclosure D  
Enclosure E

cc: State Director of Special Education